

1 AN ACT relating to the disclosure of public retirement information and declaring
2 an emergency.

3 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

4 ➔Section 1. KRS 61.661 is amended to read as follows:

5 (1) (a) Each current, former, or retired member's account shall be administered in a
6 confidential manner, and specific data regarding a current, former, or retired
7 member shall not be released for publication, except that:

8 1. ~~{unless authorized by }~~The member ***or recipient may authorize the***
9 ***release of his or her account information;***~~{however, }~~

10 2. ***Kentucky Retirement Systems***~~{The system}~~ may release account
11 information to the employer or to other state and federal agencies as it
12 deems necessary or in response to a lawful subpoena or order issued by a
13 court of law; ***or***

14 3. a. ***Upon request by any person, the systems shall release the***
15 ***following information from the accounts of any member or***
16 ***retired member of the Kentucky Employees Retirement System,***
17 ***the County Employees Retirement System, or the State Police***
18 ***Retirement System, if the member or retired member was a***
19 ***current or former officeholder in the Kentucky General***
20 ***Assembly:***

21 ***i. The first and last name of the member or retired member;***

22 ***ii. The system or systems in which the member has an***
23 ***account or from which the retired member is receiving a***
24 ***monthly retirement allowance;***

25 ***iii. The status of the member or retired member, including but***
26 ***not limited to whether he or she is a contributing member,***
27 ***a member who is not currently contributing to the systems***

1 but has not retired, a retired member, or a retired member
2 who has returned to work following retirement with an
3 agency participating in the systems;

4 iv. If the individual is a retired member, the monthly
5 retirement allowance that he or she was receiving at the
6 end of the most recently completed fiscal year;

7 v. If the individual is a member who has not yet retired, the
8 estimated monthly retirement allowance that he or she is
9 eligible to receive at his or her normal retirement date
10 based upon his or her service credit, final compensation,
11 and accumulated account balance at the end of the most
12 recently completed fiscal year; and

13 vi. The current employer or last participating employer of the
14 member or retired member, if applicable.

15 b. No information shall be disclosed under this subparagraph from
16 an account that is paying benefits to a beneficiary due to the
17 death of a member or retired member.

18 (b) A[The] current, former, or retired member's account shall be exempt from the
19 provisions of KRS 171.410 to 171.990.

20 (c) The release of information under paragraph (a)3. of this subsection shall
21 not constitute a violation of the Open Records Act, KRS 61.870 to 61.884.

22 (2) (a) When a subpoena is served upon any employee of the Kentucky Retirement
23 Systems, requiring production of any specific data regarding a current, former,
24 or retired member, it is sufficient if the employee of the Kentucky Retirement
25 Systems charged with the responsibility of being custodian of the original
26 delivers within five (5) working days, by certified mail or by personal
27 delivery, legible and durable copies of records, certified by the employee, or

1 an affidavit stating the information required by the subpoena to the person
2 specified in the subpoena. The production of documents or an affidavit shall
3 be in lieu of any personal testimony of any employee of the Kentucky
4 Retirement Systems unless, after the production of documents or affidavit, a
5 separate subpoena is served upon the systems specifically directing the
6 testimony of an employee of the systems. When a subpoena is served on any
7 employee of the systems requiring the employee to give deposition for any
8 purpose, in the absence of a court order requiring the deposition of a specific
9 employee, the systems may designate an employee to be deposed upon the
10 matter referred to in the subpoena.

11 ~~(b)(3)~~ The certification required by this subsection shall be signed before a
12 notary public by the employee and shall include the full name of the member
13 or recipient, the member's or recipient's Social Security number, and a legend
14 substantially to the following effect: "The records are true and complete
15 reproductions of the original or microfiched records which are housed in the
16 retirement systems office. This certification is given in lieu of his or her
17 personal appearance."

18 ~~(c)(4)~~ When an affidavit or copies of records are personally delivered, a receipt
19 shall be presented to the person receiving the records for his signature and
20 shall be immediately signed and returned to the person delivering the records.
21 When an affidavit or copies of records are sent via certified mail, the receipt
22 used by the postal authorities shall be sufficient to prove delivery and receipt
23 of the affidavit or copies of records.

24 ~~(d)(5)~~ When the affidavit or copies of records are delivered to a party for use in
25 deposition, they shall, after termination of the deposition, be delivered
26 personally or by certified mail to the clerk of the court or other body before
27 which the action or proceeding is pending. It shall be the responsibility of the

1 party or attorney to transmit the receipt obtained to the employee of the
2 Kentucky Retirement Systems charged with responsibility of being custodian
3 of the original. Upon issuance of a final order terminating the case and after
4 the normal retention period for court records expires, the affidavit or copies of
5 records shall be permanently disposed of by the clerk in a manner that protects
6 the confidentiality of the information contained therein.

7 ~~(e)(6)~~ Records of the Kentucky Retirement Systems that are susceptible to
8 photostatic reproduction may be proved as to foundation, identity, and
9 authenticity without any preliminary testimony, by use of legible and durable
10 copies, certified in accordance with the provisions of this subsection~~[section]~~.

11 ➔Section 2. KRS 161.585 is amended to read as follows:

12 (1) ~~[For purposes of this section, the term "records" shall include retirement estimates,~~
13 ~~affidavits, and other documents prepared by the Kentucky Teachers' Retirement~~
14 ~~System in response to information requested in a lawful subpoena or order issued by~~
15 ~~a court of law.]~~

16 ~~(2)—~~Each member's or annuitant's account shall be administered in a confidential
17 manner, and specific data regarding a member or annuitant shall not be released for
18 publication, except that:~~[unless authorized by]~~

19 (a) The member or annuitant may authorize the release of his or her account
20 information;~~[however,]~~

21 (b) The board of trustees may release member or annuitant account information
22 to the employer or to other state and federal agencies as it deems necessary or
23 in response to a lawful subpoena or order issued by a court of law; or

24 (c) 1. Upon request by any person, the system shall release the following
25 information from the accounts of any member or annuitant of the
26 Kentucky Teachers' Retirement System, if the member or annuitant
27 was a current or former officeholder in the Kentucky General

1 Assembly:

2 a. The first and last name of the member or annuitant;

3 b. The status of the member or annuitant, including but not limited
4 to whether he or she is a contributing member, a member who is
5 not contributing but has not retired, a retiree receiving a
6 monthly retirement allowance, or a retiree who has returned to
7 work following retirement with an agency participating in the
8 system;

9 c. If the individual is an annuitant, the monthly retirement
10 allowance that he or she was receiving at the end of the most
11 recently completed fiscal year;

12 d. If the individual is a member who has not yet retired, the
13 estimated monthly retirement allowance that he or she is eligible
14 to receive on the first date he or she would be eligible for an
15 unreduced retirement allowance, using his or her service credit
16 and final average salary at the end of the most recently
17 completed fiscal year; and

18 e. The current or last participating employer of the member or
19 annuitant, if applicable.

20 2. No information shall be disclosed under this paragraph from an
21 account that is paying benefits to a beneficiary due to the death of a
22 member or annuitant.

23 (2) The release of information under subsection (1)(c) of this section shall not
24 constitute a violation of the Open Records Act, KRS 61.870 to 61.884.

25 (3) Medical records which are included in a member's or annuitant's file maintained by
26 the Teachers' Retirement System are confidential and shall not be released unless
27 authorized by the member or annuitant in writing or as otherwise provided by law

1 or in response to a lawful subpoena or order issued by a court of law.

2 (4) (a) When a subpoena is served upon any employee of the Kentucky Teachers'
3 Retirement System requiring the production of any data, information, or
4 records, it is sufficient if the employee of the Kentucky Teachers' Retirement
5 System charged with the responsibility of being custodian of the original, or
6 his or her designated staff, delivers within five (5) working days by certified
7 mail or by personal delivery to the person specified in the subpoena either of
8 the following:

- 9 1. Legible and durable copies of records certified by the employee or
10 designated staff; or
- 11 2. An affidavit stating the information required by the subpoena.

12 (b) The production of records or an affidavit shall be in lieu of any personal
13 testimony of any employee of the Kentucky Teachers' Retirement System
14 unless, after the production of records or an affidavit, a separate subpoena is
15 served upon the retirement system specifically directing the testimony of an
16 employee of the retirement system. When a subpoena is served on any
17 employee of the retirement system requiring the employee to give testimony
18 or produce records for any purpose, in the absence of a court order requiring
19 the testimony of or production of records by a specific employee, the system
20 may designate an employee to give testimony or produce records upon the
21 matter referred to in the subpoena. The board of trustees may promulgate an
22 administrative regulation for the recovery of reasonable travel and
23 administrative expenses for those occasions when an employee of the
24 retirement system is required to travel from his or her home or office to
25 provide testimony or records. Recoverable expenses may include the wages,
26 salary, and overtime paid to the employee by the retirement system for the
27 period of time that the employee is away from the office. The cost of these

1 expenses shall be borne by the party issuing the subpoena compelling the
2 employee's travel. The board of trustees may also promulgate an
3 administrative regulation establishing a reasonable fee for the copying,
4 compiling, and mailing of requested records.

5 ~~(c)(5)~~ The certification required by this subsection shall be signed before a
6 notary public by the employee and shall include the full name of the member
7 or annuitant, the member or annuitant identification number assigned to the
8 member or annuitant by the retirement system, and a legend substantially to
9 the following effect: "The records are true and complete reproductions of the
10 original, microfiched, or electronically stored records which are housed in the
11 retirement system's office. This certification is given in lieu of the
12 undersigned's personal appearance."

13 ~~(d)(6)~~ When an affidavit or copies of records are personally delivered, a receipt
14 shall be presented to the person receiving the records for his or her signature
15 and shall be immediately signed and returned to the person delivering the
16 records. When an affidavit or copies of records are sent via certified mail, the
17 receipt used by the postal authorities shall be sufficient to prove receipt of the
18 affidavit or copies of records.

19 ~~(e)(7)~~ When the affidavit or copies of records are delivered to a party for use in
20 deposition they shall, after termination of the deposition, be delivered
21 personally or by certified mail to the clerk of the court or other body before
22 which the action or proceeding is pending.

23 ~~(f)(8)~~ Upon completion of delivery by the retirement system of copies of
24 records by their deposit in the mail or by their personal delivery to the
25 requesting party, the retirement system shall cease to have any responsibility
26 or liability for the records and their continued maintenance in a confidential
27 manner.

1 ~~(g)~~~~(9)~~ Records of the Kentucky Teachers' Retirement System that are
2 susceptible to reproduction may be proved as to foundation, identity, and
3 authenticity without preliminary testimony, by use of legible and durable
4 copies, certified in accordance with the provisions of this subsection~~[section]~~.

5 ~~(h)~~~~(10)~~ The provisions of this subsection~~[section]~~ shall not be construed to
6 prohibit the Kentucky Teachers' Retirement System from asserting any
7 exemption, exception, or relief provided under the Kentucky Rules of Civil
8 Procedure or other applicable law.

9 **(5) For purposes of this section, "records" includes retirement estimates, affidavits,**
10 **and other documents prepared by the Kentucky Teachers' Retirement System in**
11 **response to information requested in a lawful subpoena or order issued by a**
12 **court of law.**

13 ➔Section 3. KRS 21.540 is amended to read as follows:

14 (1) Except as provided in KRS 21.550, 21.560, and subsection (3) of this section, the
15 board of trustees of the Judicial Form Retirement System shall be charged with the
16 administration of that system and of KRS 21.350 to 21.510, and shall have all
17 powers necessary thereto, including the power to promulgate all reasonable
18 administrative regulations, pass upon questions of eligibility and disability, make
19 employments for services, and to contract for fiduciary liability insurance, and for
20 investment counseling, actuarial, auditing, and other professional services as
21 required without the limitations of KRS 45A.045. The administrative expenses shall
22 be paid out of an administrative account which shall be funded by transfers of the
23 necessary money, in appropriate ratio, from the funds provided for in KRS 21.550
24 and 21.560.

25 (2) (a) A qualified domestic relations order issued by a court or administrative
26 agency shall be honored by the Judicial Form Retirement System if the order
27 is in compliance with the requirements established by the retirement system.

1 (b) Except in cases involving child support payments, the Judicial Form
2 Retirement System may charge reasonable and necessary fees and expenses to
3 the participant and the alternate payee of a qualified domestic relations order
4 for the administration of the qualified domestic relations order by the
5 retirement system. All fees and expenses shall be established by
6 administrative regulations promulgated by the board of trustees of the
7 retirement system. The qualified domestic relations order shall specify
8 whether the fees and expenses provided by this subsection shall be paid:

- 9 1. Solely by the participant;
- 10 2. Solely by the alternate payee; or
- 11 3. Equally shared by the participant and alternate payee.

12 (c) For purposes of this subsection, a "qualified domestic relations order" shall
13 mean any judgment, decree, or order, including approval of a property
14 settlement agreement, that:

- 15 1. Is issued by a court or administrative agency; and
- 16 2. Relates to the provision of child support, alimony payments, or marital
17 property rights to a spouse, former spouse, child, or other dependent of a
18 member.

19 (3) Notwithstanding any other evidence of legislative intent, it is hereby declared to be
20 the controlling legislative intent that the provisions of KRS 21.345 to 21.580 and
21 6.500 to 6.577 shall conform with federal statutes or regulations and meet the
22 qualification requirements under 26 U.S.C. sec. 401(a), applicable federal
23 regulations, and other published guidance, and the board shall have the authority to
24 promulgate administrative regulations, with retroactive effect if required under
25 federal law, to conform the Legislators' Retirement Plan and the Judicial Retirement
26 Plan with federal statutes and regulations and to meet the qualification requirements
27 under 26 U.S.C. sec. 401(a).

- 1 (4) The Judicial Form Retirement System shall make available on a public Web site, a
2 listing of all system expenditures and a listing of each individual employed by the
3 systems along with the employee's salary or wages. The system may provide the
4 information through a Web site established by the executive or judicial branch to
5 inform the public about executive or judicial branch agency expenditures and public
6 employee salaries and wages. Nothing in this subsection shall require or compel the
7 Judicial Form Retirement System to disclose information specific to the account of
8 an individual member of the Legislators' Retirement Plan or the Judicial Retirement
9 Plan.
- 10 (5) No trustee or employee of the board shall:
- 11 (a) Have any interest, direct or indirect, in the gains or profits of any investment
12 or transaction made by the board, provided that the provisions of this
13 paragraph shall not prohibit a member or retiree of one (1) of the retirement
14 plans administered by the system from serving as a trustee;
- 15 (b) Directly or indirectly, for himself or herself or as an agent, use the assets of
16 the system, except to make current and necessary payments authorized by the
17 board;
- 18 (c) Become an endorser, surety, or obligor for moneys loaned by or borrowed
19 from the board;
- 20 (d) Have a contract or agreement with the retirement system, individually or
21 through a business owned by the trustee or the employee;
- 22 (e) Use his or her official position with the retirement system to obtain a financial
23 gain or benefit or advantage for himself or herself or a family member;
- 24 (f) Use confidential information acquired during his or her tenure with the
25 systems to further his or her own economic interests or that of another person;
26 or
- 27 (g) Hold outside employment with, or accept compensation from, any person or

1 business with which he or she has involvement as part of his or her official
2 position with the system. The provisions of this paragraph shall not prohibit:

- 3 1. A trustee from serving as a judge or member of the General Assembly;
4 or
- 5 2. A trustee from serving on the board if the compensation is de minimus
6 and incidental to the trustee's outside employment. If the compensation
7 is more than de minimus, the trustee shall disclose the amount of the
8 compensation to the other trustees and recuse himself or herself from
9 any matters involving hiring or retaining a person or a business from
10 whom more than de minimus amounts are received by the trustee. For
11 purposes of this section, "de minimus" means an insignificant amount
12 that does not raise a reasonable question as to the trustee's objectivity.

13 (6) Notwithstanding any other provision of KRS 6.500 to 6.577 and 21.345 to 21.580 to
14 the contrary, no funds of the Legislators' Retirement Plan or the Judicial Retirement
15 Plan, including fees and commissions paid to an investment manager, private fund,
16 or company issuing securities, who manages systems assets, shall be used to pay
17 fees and commissions to unregulated placement agents. For purposes of this
18 subsection, "unregulated placement agent" means an individual or firm who solicits
19 investments on behalf of an investment manager, private fund, or company issuing
20 securities, who is prohibited by federal securities laws and regulations promulgated
21 thereunder from receiving compensation for soliciting a government agency.

22 (7) (a) 1. Upon request by any person, the Judicial Form Retirement System
23 shall release the following information from the accounts of any
24 member or retiree of the Legislators' Retirement Plan or the Judicial
25 Retirement Plan, if the member or retiree was a current or former
26 officeholder in the Kentucky General Assembly:
27 a. The first and last name of the member or retiree;

1 **b. The plan or plans in which the member has an account or from**
2 **which the retiree is receiving a monthly retirement allowance;**

3 **c. The status of the member or retiree, including but not limited to**
4 **whether he or she is a contributing member, a member who is**
5 **not currently contributing to the plans but has not retired, or a**
6 **retiree drawing a monthly retirement allowance;**

7 **d. If the individual is a retiree, the monthly retirement allowance**
8 **that he or she was receiving at the end of the most recently**
9 **completed fiscal year; and**

10 **e. If the individual is a member who has not yet retired, the**
11 **estimated monthly retirement allowance that he or she is eligible**
12 **to receive on the first date he or she would be eligible for an**
13 **unreduced retirement allowance, using his or her service credit,**
14 **final compensation, and accumulated account balance at the end**
15 **of the most recently completed fiscal year.**

16 **2. No information shall be disclosed under this paragraph from an**
17 **account that is paying benefits to a beneficiary due to the death of a**
18 **member or retiree.**

19 **(b) The release of information under paragraph (a) of this subsection shall not**
20 **constitute a violation of the Open Records Act, KRS 61.870 to 61.884.**

21 ➔Section 4. Whereas ensuring the public disclosure of the state retirement
22 information relating to any current or former officeholder of the General Assembly is
23 important to the taxpayers of the Commonwealth of Kentucky, an emergency is declared
24 to exist, and this Act takes effect upon its passage and approval by the Governor or upon
25 its otherwise becoming law.